

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

JIMMIE MARK PARROTT, JR.	§	
VS.	§	CIVIL ACTION NO. 1:20cv454
BRIAN COLLIER, ET AL.	§	

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE

Plaintiff Jimmie Mark Parrott, Jr., formerly an inmate confined in the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought the above-styled action.

The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Discussion

Plaintiff was granted permission to proceed *in forma pauperis* while incarcerated, but he made no subsequent payments during his incarceration toward satisfaction of the full \$350.00 filing fee. Plaintiff has since notified the court of a change of address to a private address located in Splendora, Texas. Since plaintiff has been released from confinement, his ability to proceed *in forma pauperis* is now governed by 28 U.S.C. § 1915(a)(1). Accordingly, on December 15, 2023, plaintiff was ordered to either pay the remainder of the full balance of the full filing fee, \$350.00, or submit a new Application to Proceed In Forma Pauperis reflecting his current financial status after his release from confinement. Plaintiff's compliance was due on or before the expiration of fifteen days from the date of the order.

FED. R. CIV. P. 41(b) authorizes the district court to dismiss an action for failure to prosecute or for failure to comply with any court order. *Larson v. Scott*, 157 F.3d 1030, 1031 (5th Cir. 1998). "This authority [under Rule 41(b)] flows from the court's inherent power to control its docket and

prevent undue delays in the disposition of pending cases.” *Boudwin v. Graystone Ins. Co.*, 756 F.2d 399, 401 (5th Cir. 1985) (citing *Link v. Wabash, R.R. Co.*, 370 U.S. 626, 629 (1962)).

As of this date, plaintiff has neither paid the \$350.00 filing fee nor submitted a current Application to Proceed *In Forma Pauperis*. Therefore, plaintiff has failed to diligently prosecute this action. Accordingly, this case should be dismissed for want of prosecution pursuant to FED. R. CIV. P. 41(b).

Recommendation

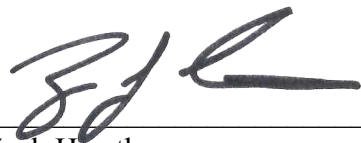
This case should be dismissed without prejudice pursuant to FED. R. CIV. P. 41(b).

Objections

Within fourteen days after being served with a copy of the magistrate judge’s report, any party may serve and file written objections to the findings of facts, conclusions of law and recommendations of the magistrate judge. 28 U.S.C. § 636 (b)(1)(C).

Failure to file written objections to the proposed findings of facts, conclusions of law and recommendations contained within this report within fourteen days after service shall bar an aggrieved party from the entitlement of *de novo* review by the district court of the proposed findings, conclusions and recommendations and from appellate review of factual findings and legal conclusions accepted by the district court except on grounds of plain error. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc); 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72.

SIGNED this 8th day of January, 2024.

A handwritten signature in black ink, appearing to read 'Zack Hawthorn', written over a horizontal line.

Zack Hawthorn
United States Magistrate Judge